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June 2, 2006

VIA FACSIMILE: 1-571-273-6500

Commissioner for Patents
Attn: Refund Request Department
P. O. Box 1450
Alexandria, Virginia 22313-1450

Re: Request for Refund
U.S. Serial No.: 09/481,126
Our Ref. No.: TEQ 01117 PTUS

Dear Sir or Madam:

On April 6, 2006, Applicant filed an Appeal Brief, the Appeal Brief Fee of two hundred fifty dollars (\$250.00), and a fee for a one-month extension of sixty dollars (\$60.00), as indicated on the enclosed date stamped postcard for the Appeal Brief. However, the U.S. Patent Office has charged Deposit Account 50-2180 an additional one hundred sixty-five dollars (\$165.00) (for a two-month extension fee), as indicated on the enclosed copy of the Monthly Statement of Deposition Account for Account No. 50-2180. Applicant's representative respectfully asserts that this charge to the above-mentioned Deposit Account is incorrect, and requests that the additional one hundred sixty-five dollars (\$165.00) be refunded.

According to the Notice of Panel Decision from Pre-Appeal Brief Review, which is also enclosed and which was mailed on February 6, 2006, Item 2 was marked and reads as follows:

2. ☒ **Proceed to Board of Patent Appeals and Interferences** - A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

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June 2, 2006
Page 2

To reiterate, this form states that "[t]he time period for filing an appeal brief will be reset to be one month from the mailing date of this decision or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater." (Emphasis added.)

The PTO indicated on the date stamped postcard for the Notice of Appeal, which is enclosed, that the date of receipt of the Notice of Appeal was December 19, 2005. Therefore, the two-month time period from the date of receipt of the Notice of Appeal would be February 19, 2006, whereas one month from the date of mailing of the Notice of Panel Decision from Pre-Appeal Brief Review would be March 6, 2006. Thus, the Appeal Brief would have been timely filed on or before March 6, 2006, and an Appeal Brief filed on or before April 6, 2006 (which is the case here) would incur a one-month extension of time fee. It is, therefore, clear that the U.S. Patent Office miscalculated the due date for the Appeal Brief filed on April 6, 2006.

Accordingly, in light of the above details and enclosed documents showing proof of the miscalculated due date, please credit our Deposit Account No. 50-2180 (STORM LLP) with the amount of one hundred sixty-five dollars (\$165.00).


Sincerely,



John J. Patti
Registration No. 57,191

Enclosures:

- (1) Copy of Monthly Statement of Deposition Account for Account No. 50-2180;
- (2) Date-stamped postcard for the Notice of Appeal;
- (3) Notice of Panel Decision from Pre-Appeal Brief Review;
- (4) Date-stamped postcard for the Appeal Brief;

Application Number 	Application/Control No. 09/481,126		App. int(s)/Patent under Reexamination ELLIOTT, DOUGLAS R.
	Harish T. Dass		Art Unit 3628
Document Code - AP.PRE.DEC			

Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 12-19-2005.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☐ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☐ Other:

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable. *

☒ The panel has determined the status of the claim(s) is as follows:
 Claim(s) allowed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: 1-6.
 Claim(s) withdrawn from consideration: _____

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) Hyung S. Souh *HS*

(3) Harish T. Dass

Harish T. Dass

(2) Frantzy Polnyil *FP*

(4) _____

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/481,126	01/11/2000	Douglas R. Elliott	TEQ11117000	5216
32233	7590	10/12/2005	plus	
STORM L.L.P. BANK OF AMERICA PLAZA 901 MAIN STREET, SUITE 7100 DALLAS, TX 75202			EXAMINER	
			DASS, IARISH T	
		ART UNIT	PAPER NUMBER	
		3028		

DATE MAILED: 10/12/2005

2 mos. 12/12/05
3 mos. 4/12/06
6 mos. 4/12/06

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

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PAGE 9/9 * RCVD AT 6/2/2006 11:46:09 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/3 * DNIS:2736500 * CSID: * DURATION (mm:ss):02:26

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FACSIMILE (214) 347-4799
JOHN.PATTI@ALLIPLAW.COM

Facsimile Information Sheet

DATE/TIME: June 2, 2006, 10:38 AM

FROM: John J. Patti

TO:

RECIPIENT

COMPANY

FAX NUMBER

Refund Request Department U.S. Patent Office

1-571-273-6500

OUR REF NO: JOHN 02962 PTUS

TOTAL NUMBER OF PAGES (including this sheet): 8

MESSAGE:

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To replenish your deposit account, detach and return top portion with
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DATE POSTED			CONTROL NO.	DESCRIPTION (Serial, Patent, TM, Order)	DOCKET NO.	FEE CODE	CHARGES/ CREDITS	BALANCE
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4	19	06	176	10800446	JORN 02962 PT03	2401	250.00	1799.00
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<input type="checkbox"/> DIVISIONAL APPN	<input checked="" type="checkbox"/> OTHER <u>Notice of Appeal</u>
<input type="checkbox"/> AMENDMENT _____	<u>Pre-Appeal Brief Request</u>
<input type="checkbox"/> EOT _____ MTHS. _____	

NAME OF INVENTOR(S)/APPLICANT: <u>DOUGLAS ELLIOTT</u>	SERIAL NO. AND RECEIPT DATE <u>09/481,126</u>
TITLE OF INVENTION: <u>METHOD FOR OBTAINING...</u>	
CLIENT: <u>TEQ</u> FILE NO.: <u>1117PTUS</u>	
Mailed: <u>12-12-05</u> EXPRESS <input type="checkbox"/>	
Date: <u>12-12-05</u>	
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STORM L.L.P. BANK OF AMERICA PLAZA 901 MAIN STREET, SUITE 7100 DALLAS, TX 75202			EXAMINER DASS, HARISH T	
			ART UNIT 3628	PAPER NUMBER

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